

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Application by Ameritech Michigan)
 For Authorization Under Section 271 of the)
 Communications Act To Provide In-Region)
 InterLATA Services in the State of Michigan)

CC Docket
 No. 97-137

AT&T'S REPLY COMMENTS ON
PETITIONS FOR RECONSIDERATION AND CLARIFICATION

Pursuant to Section 1.106(h) of the Commission's Rules, and its Public Notice, FCC Report No. 2228, dated September 25, 1997, AT&T Corp. ("AT&T") hereby files for the limited purpose of replying to Bell Atlantic's comments, filed for the first time with the Commission on October 9, 1997, on petitions for reconsideration of the Commission's order.¹

ARGUMENT

As amply shown in the opposition comments filed October 9, 1997 with the Commission,² there is no basis for reconsideration or clarification of the Order, nor do Bell Atlantic's comments identify such a basis.

¹ *In the, Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan, CC Docket No. 97-137, FCC 97-298, released August 19, 1997 ("Order").*

² Oppositions to the petitions were filed by The Association for Local Telecommunications Services, AT&T, The Competition Policy Institute, MCI Telecommunications

(footnote continued on next page)

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Bell Atlantic argues the Order's disapproval of the Ameritech's proposed telemarketing script³ violates the Act's intent and would result in an inherently unfair and unworkable scenario.⁴ Bell Atlantic's concerns are misplaced, and contrary to long-standing equal access requirements. As the Commission correctly stated: "Section 251(g) of the Act preserves the equal access requirements in place prior to the passage of the 1996 Act, including obligations imposed by the MFJ and any Commission rules,"⁵ and "the continuing obligation to advise new customers of other interLATA options is not incompatible with the [R]BOC's right to market and sell the services of their Section 272 affiliates under Section 272(g)."⁶ Thus, the Commission's analysis does not preclude RBOCs from offering one stop shopping in accordance with the foregoing requirements.⁷

(footnote continued from previous page)

Corporation, and Sprint Communications Company, L.P. Bell Atlantic filed comments favoring reconsideration of the Order's discussion of Ameritech's proposed telemarketing script.

³ Order ¶¶ 375-76.

⁴ Bell Atlantic pp.2-3.

⁵ *Implementation of Non-Accounting Safeguards of Sections 271 and 272 of the Telecommunications Act of 1934, as Amended, First Report and Order and Further Notice of Proposed Rulemaking*, CC Docket No. 96-149, FCC 96-489, released December 24, 1996, ¶ 251 (cites omitted).

⁶ *Id.* ¶ 292 (cites omitted).

⁷ Contrary to Bell Atlantic's claim (Bell Atlantic, pp.3-4), the Commission's reference in its *Non-Accounting Safeguards Order* to the NYNEX *ex parte* (*Non-Accounting Safeguards Order* ¶ 292 n.764) cannot be construed as endorsing any specific proposal regarding the sequence for complying with equal access obligations, but is rather only a confirmation that marketing to in-bound callers is permitted.

Bell Atlantic also attempts to create an issue where none exists by raising the specter of First Amendment concerns.⁸ The simple answer is that the Commission's Order does not preclude an RBOC from marketing the services of its affiliate, or otherwise bar RBOC commercial speech. Rather, consistent with long-standing equal access requirements, as explicitly preserved by Section 251(g) of the Act, the Commission requires only that additional carrier information be given to customers,⁹ and that the RBOC not identify only its affiliated interexchange carrier on in-bound calls.¹⁰

⁸ Bell Atlantic pp.4-5.

⁹ See, *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626, 651 (1985) ("constitutionally protected interest in *not* providing any particular factual information in [] advertisements is minimal") (emphasis in original). The Court also stated, "all our discussions of restraints of commercial speech have recommended disclosure requirements as one of the acceptable less restrictive alternatives to actual suppression of speech" *Id.* See also, *Riley v. National Fedn. of the Blind*, 487 U.S. 781, 796 n.9 (1988) ("[p]urely commercial speech is more susceptible to compelled disclosure requirements").

¹⁰ The analogy to equal access balloting is clear. Therein, the RBOCs were required to give inter-exchange carriers "an equal opportunity to appear first on the Equal Access Ballot." *Investigation of Access and Divestiture Related Tariffs, Memorandum Opinion and Order*, CC Docket No. 83-1145 Phase I, FCC 85-293, released June 12, 1985, Appendix B ¶ 7.

CONCLUSION

For the reasons stated above and in AT&T's comments, the petitions for reconsideration and clarification of the Commission's August 19, 1997 Order should be denied.

Respectfully submitted,

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By 

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October 20, 1997

CERTIFICATE OF SERVICE

I, Ann Marie Abrahamson, do hereby certify that on this 20th day of October, 1997, a copy of the foregoing "AT&T Reply Comments On Petitions For Reconsideration and Clarification" was mailed by U.S. first class mail, postage prepaid, to the parties listed on the attached service list.


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